

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DEMETRIUS WRIGHT,
LUIS VELEZ,

Plaintiffs, on
on behalf of themselves and all others similarly situated,

Civil Action No.: 08CV3172
(DC)(ECF)

DECLARATION OF
DAVID C. WIMS

-against-

BRAE BURN COUNTRY CLUB, INC.,
STEVEN VANDO, individually and as General Manager
of Brae Burn Country Club,
MARIA CONTE, individually and as Controller
of Brae Burn Country Club,

Defendants.

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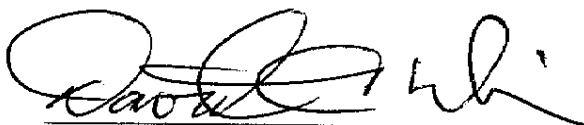
DAVID C. WIMS, declares under penalty of perjury:

1. I am Plaintiffs' counsel in the instant action, and am admitted to practice in this Court. I am fully familiar with the facts and circumstances surrounding this matter, and submit this declaration in opposition to Defendants' motion to dismiss, or in the alternative, for summary judgment.
2. This is an action for unpaid wages, inter alia, under federal and state law, by two former employees of Defendants.
3. During their tenures, Defendants: a) failed to pay Plaintiffs for all hours worked, b) in some instances, reduced Plaintiffs' hours ex post facto; and c) failed to include the value of employer-provided room and board into the calculation of Plaintiffs' overtime wages.

4. Upon information and belief, Defendants subjected other similarly situated employees to the same labor practices.
5. After his employment ended, Plaintiff Wright filed a charge of discrimination against Defendant Brae Burn with the EEOC that was subsequently settled by the parties.
6. Plaintiffs' counsel then filed the instant action seeking unpaid wages relying on Supreme Court precedent for the proposition that wage claims are not releasable, waivable, nor subject to required exhaustion of arbitral remedies.
7. The claims asserted in the instant action for RICO and the Thirteenth Amendment are on behalf of both Plaintiffs, and to the extent the settlement agreement and release bars them for Plaintiff Wright, those claims are solely for Plaintiff Velez.
8. Defendants' motion should be denied in its entirety.

Dated: Brooklyn, New York

September 4, 2008



LAW OFFICE OF DAVID C. WIMS

David C. Wims, Esq.

Attorney for Plaintiffs

1430 Pitkin Ave., 2nd Fl.

Brooklyn, NY 11233

(646) 393-9550

CIV. ACTION #: 08CV3172

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DECLARATION

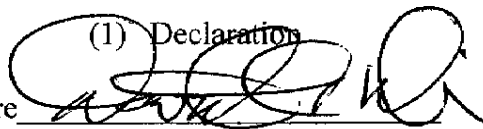
Law Office of David Wims
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Brooklyn, NY 11233
(646) 393-9550
Fax (646) 393-9552

This certification, pursuant to Federal Rule of Civil Procedure 11,

applies to the following within papers:

Dated: September 5, 2008

Signature

(1) Declaration

David C. Wims